

**REGULAR COUNCIL MEETING  
CITY OF WATERTOWN**

**May 17, 2004**

**7:00 P.M.**

**MAYOR JEFFREY A GRAHAM PRESIDING**

**PRESENT:**            **COUNCILMAN STEPHEN J. BRADLEY  
COUNCILMAN PETER L. CLOUGH  
COUNCILMAN TIMOTHY R. LABOUF  
MAYOR GRAHAM**

**ABSENT:**            **COUNCILWOMAN ROXANNE M. BURNS**

**ALSO PRESENT:**   **CITY MANAGER MARY M. CORRIVEAU  
ATTORNEY ROBERT J. SLYE**

City Manager Corriveau presented the following reports to the Council:

- 1 - Authorizing Sale of Real Property, Known As VL Factory Street, Parcel No. 6-05-201.001
- 2- Authorizing Sale of Real Property, Known As VL R696 Grant Street, Parcel No. 4-05-122.001
- 3 - Authorizing Sale of Real property, Known As VL R678 Grant Street, Parcel No. 4-05-116.001
- 4 - Authorizing Sale of Real Property, Known As VL 317 Hamilton Street South (Northerly Half), Parcel No. 12-09-405.000
- 5 - Authorizing Sale of Real Property, Known As VL 317 Hamilton Street South (Southerly Half), Parcel No. 12-09-405.001
- 6 - Adopting the Scope Summary Memorandum/Final Design Report for the Downtown Watertown Streetscape Enhancement Project, PIN 7803.92
- 7 - Approving the Site Plan for the Construction of a 47 Space Parking Lot at 403 Washington Street, Parcels No. 11-03-213, 11-03-215 and 11-03-216
- 8 - Approving Bid for Purchase of Vibratory Roller for Use by the Department of Public Works
- 9 - Approving Bid for Sports Lights, Alex T. Duffy Fairgrounds
- 10 - Approving Bid for Replacement of Lillian Street Water Main
- 11 - Authorizing the Issuance of \$60,000 Serial Bonds of the City of Watertown, Jefferson County, New York to Pay the Cost of the Replacement of the Lillian Street Water Main, In and For Said City of Watertown
- 12 - Authorizing the Issuance of \$25,000 Serial Bonds of the City of Watertown, Jefferson County, New York to Pay Additional Costs of the Purchase and Installation of Exterior Parking Lot and Walkway Lighting at the Jefferson County Courthouse, In and For Said City
- 13 - Monthly Financial Report
- 14 - Proposed Roadways to J.B. Wise Parking Lot
- 15 - Outdoor Bulk Storage Legislation

## **COMPLETE REPORTS ON FILE IN THE OFFICE OF THE CITY CLERK**

Meeting opened with a moment of silence.

Pledge of Allegiance was given.

The reading of the minutes of the regular meeting of May 3, 2004 and the budget session of May 10, 2004 was dispensed with and accepted as written by motion of Councilman LaBouf, seconded by Councilman Clough and carried with all voting in favor thereof.

## **C O M M U N I C A T I O N S**

Minutes were received from the library's board meeting.

### **ABOVE PLACED ON FILE**

From the City's Planning Board recommending Council approve the site plan request submitted by Patrick J. Scordo of GYMO, P.C., on behalf of First Presbyterian Church for construction of a 47-space parking lot at 403 Washington Street, Parcels No. 11-03-213, 11-03-215 and 11-03-216 contingent upon certain requirements being met as outlined in the resolution.

### **ABOVE PLACED ON FILE**

Mayor Graham proclaimed the month of May as **Official Poppy Month** in the City of Watertown.

## **PRIVILEGE OF THE FLOOR**

**Olivia Russell**, 728 Morrison Street, addressed the chair concerning the salt pile. She explained that she has been diagnosed with asthma and her children have respiratory infections. She asked what the City was going to do about the salt pile situation.

Mayor Graham responded that he had asked Mrs. Corriveau to contact DEC and he had contacted the New York State Department of Health. Mr. Boxberger was not in the office but Mayor Graham will be contacting him on Tuesday. He stated that there certainly is a nuisance problem and it may be a health problem as well.

Mrs. Russell remarked that the state would say there is not a health problem.

Mayor Graham commented that this is a frustrating issue for everyone involved.

Mrs. Russell mentioned that there had been a previous option whereby the salt pile would be moved to the industrial park.

Mrs. Corriveau explained that this had been an option that was discussed with Mr. Cleaves. However, Mr. Cleaves, as the owner of the property, is within the rights of the zoning law to leave the salt pile where it is. She also posed the question of why Mr. Cleaves would spend money to move the pile when he is in compliance with the zoning law in the location that it presently is. She also commented that she is not sure that the City has the right to invest public dollars for a private business owner to move.

**Carol Brandt**, 113 W. Main Street, addressed the chair concerning the unsafe conditions of the sidewalks. She stated that she was an advocate for handicapped people who push shopping carts and baby carriages. She discussed the several MRIs she had after a fall she had in front of a Sunoco station.

**Dianne Pierce**, 564 Burdick Street, addressed the chair complaining about the salt pile and questioned why the Council could pass legislation banning wood burning stoves but do nothing for the residents living near the salt pile. She stated that the salt pile was the size of Mt. Rushmore and also stated that her husband died in January from unknown pulmonary causes.

**Joanne Heaslip**, Clayton, addressed the chair explaining that she used to live on Burdick Street but was able to move to Clayton. She commented that others on that street couldn't move out. She also commented that children couldn't go out to play. She remarked that this cannot be legal and she questioned where the cover was for the pile.

## **RESOLUTIONS**

### **INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS there has heretofore been bid in by the City of Watertown at a tax sale a certain lot of land known as VL Factory Street, approximately .24 acres in size, and also known and designated on the map of the Department of Assessment and Taxation of the City of Watertown, New York as Parcel No. 6-05-201.001, and

WHEREAS title to said land has since been retained by the City of Watertown as acquired at said tax sale, which title was retained by reason of the failure of anyone to redeem the same, and

WHEREAS said real property has never been assigned by the Council for a public use,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1, 1985, adopted December 3, 1984, effective January 17, 1985, and the ordinance, Municipal Code, Chapter 16 adopted by the Council on June 6, 1977, that the offer of \$2,615.00 submitted by Glenn G. Armstrong for the purchase of Parcel No.6-05-201.001 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized, empowered and directed to execute and deliver a Quit Claim Deed of said real property to Glenn G. Armstrong upon receipt of the above mentioned sum of money in cash only by the City Comptroller.

**SECONDED BY COUNCILMAN PETER L. CLOUGH AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS there has heretofore been bid in by the City of Watertown at a tax sale a certain lot of land known as VL R696 Grant Street, approximately 20' x 91' in size, and also known and designated on the map of the Department of Assessment and Taxation of the City of Watertown, New York as Parcel No. 4-05-122.001, and

WHEREAS title to said land has since been retained by the City of Watertown as acquired at said tax sale, which title was retained by reason of the failure of anyone to redeem the same, and

WHEREAS said real property has never been assigned by the Council for a public use,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1, 1985, adopted December 3, 1984, effective January 17, 1985, and the ordinance, Municipal Code, Chapter 16 adopted by the Council on June 6, 1977, that the offer of \$273.00 submitted by Francis H. Rutledge, for the purchase of Parcel No. 4-05-122.001 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized, empowered and directed to execute and deliver a Quit Claim Deed of said real property to Francis H. Rutledge upon receipt of the above mentioned sum of money in cash only by the City Comptroller.

**SECONDED BY COUNCILMAN PETER L. CLOUGH AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS there has heretofore been bid in by the City of Watertown at a tax sale a certain lot of land known as VL R678 Grant Street, approximately 20' x 100' in size, and also known and designated on the map of the Department of Assessment and Taxation of the City of Watertown, New York as Parcel No. 4-04-116.001, and

WHEREAS title to said land has since been retained by the City of Watertown as acquired at said tax sale, which title was retained by reason of the failure of anyone to redeem the same, and

WHEREAS said real property has never been assigned by the Council for a public use,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1, 1985, adopted December 3, 1984, effective January 17, 1985, and the ordinance, Municipal Code, Chapter 16 adopted by the Council on June 6, 1977, that the offer of \$300.00 submitted by John J. and Mary L. Trombly, for the purchase of Parcel No. 4-05-116.001 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized, empowered and directed to execute and deliver a Quit Claim Deed of said real property to John J. and Mary L. Trombly upon receipt of the above mentioned sum of money in cash only by the City Comptroller.

**SECONDED BY COUNCILMAN TIMOTHY R. LABOUF AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS there has heretofore been bid in by the City of Watertown at a tax sale a certain lot of land known as VL 317 Hamilton Street South (northerly half) approximately .08 acres in size, and also known and designated on the map of the Department of Assessment and Taxation of the City of Watertown, New York as Parcel No. 12-09-405.000, and

WHEREAS title to said land has since been retained by the City of Watertown as acquired at said tax sale, which title was retained by reason of the failure of anyone to redeem the same, and

WHEREAS said real property has never been assigned by the Council for a public use,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1, 1985, adopted December 3, 1984, effective January 17, 1985, and the ordinance, Municipal Code, Chapter 16 adopted by the Council on June 6, 1977, that the offer of \$525.00 submitted by Edmund H. DeMattia, Jr., for the purchase of Parcel No. 12-09-405.000 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized, empowered and directed to execute and deliver a Quit Claim Deed of said real property to Edmund H. DeMattia, Jr. upon receipt of the above mentioned sum of money in cash only by the City Comptroller.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS there has heretofore been bid in by the City of Watertown at a tax sale a certain lot of land known as VL 317 Hamilton Street South (southerly half) approximately .077 acres in size, and also known and designated on the map of the Department of Assessment and Taxation of the City of Watertown, New York as Parcel No. 12-09-405.001, and

WHEREAS title to said land has since been retained by the City of Watertown as acquired at said tax sale, which title was retained by reason of the failure of anyone to redeem the same, and

WHEREAS said real property has never been assigned by the Council for a public use,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1, 1985, adopted December 3, 1984, effective January 17, 1985, and the ordinance, Municipal Code, Chapter 16 adopted by the Council on June 6, 1977, that the offer of \$500.00 submitted by Timothy A. Zimmer, for the purchase of Parcel No. 12-09-405.001 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized, empowered and directed to execute and deliver a Quit Claim Deed of said real property to Timothy A. Zimmer upon receipt of the above mentioned sum of money in cash only by the City Comptroller.

**SECONDED BY COUNCILMAN TIMOTHY R. LABOUF AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS the City Council of the City of Watertown, in conjunction with New York State Department of Transportation, is considering construction on the Downtown Watertown Streetscape Enhancement Project, and

WHEREAS the City of Watertown has retained Clough Harbour & Associates, LLP, to assist in the Downtown Watertown Streetscape Enhancement Project, and

WHEREAS Clough Harbour & Associates, LLP, has completed the Scope Summary Memorandum/Final Design Report and prepared a Design Approval Request Memo for the project, and

WHEREAS the City Council has reviewed the completed Scope Summary Memorandum/Final Design Report and Design Approval Request Memo,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that:

1. The City of Watertown concurs with the completed Scope Summary Memorandum/ Final Design Report for the Downtown Watertown Streetscape Enhancement Project.
2. The Mayor of the City of Watertown is authorized and directed to sign and submit the Design Approval Request Memo to the New York State Department of Transportation approving the preferred alternative and requesting acceptance of the Scope Summary Memorandum/Final Design Report.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS Patrick J. Scordo, P.E., of GYMO, P.C., has made application for site plan approval on behalf of First Presbyterian Church for the construction of a 47 space parking lot at 403 Washington Street, Parcels No. 11-03-213, 11-03-215 and 11-03-216, and

WHEREAS the Jefferson County Planning Board reviewed the proposed site plan at its meeting held on April 27, 2004, pursuant to General Municipal Law Section 239-m, and adopted a motion that the project does not have any significant County-wide or intermunicipal issues and is of local concern only, and

WHEREAS the Planning Board of the City of Watertown reviewed the site plan at its meeting held on Tuesday, May 4, 2004, and recommended that the City Council of the City of Watertown approve the site plan, contingent upon the following:

1. That the applicant obtain written permission from the adjoining property owners to the east and the south of the site regarding the proposed placement of the dumpster at the southeast corner of the property.

2. That a clear distance of 5' from the edge of the new driveway and the relocated guy wire is provided.

3. That special caution be taken when working in the grassed plot margin to avoid the existing electric conduits.

4. That all permits, including a City permit, a storm sewer permit, a curb cut permit and sidewalk permit be obtained for the project

5. That all drainage must be contained on the site.

6. That the storm sewer pipe to be installed in the street area is to be 12" RCP rather than HDPE.

7. That the applicant shall coordinate with the Water Department regarding the water shutoff located in the existing driveway for 142 Academy Street.

8. That the light fixtures located along the east property line are shielded in such a manner that they direct the light away from the adjacent residential property.

9. That a 5' landscaped buffer area be provided along the east and south sides of the property.

10. That the three tax parcels be combined by way of a new metes and bounds description filed with the County Clerk.

11. That the 3' asphalt striped area shown on the proposed plans in the area along the sidewalk be converted into a landscaped area with ornamental fencing.

12. That a landscaped planter be installed in the striped no parking area located to the south of the existing handicapped parking spaces.

13. That the site plan is revised and submitted to the City prior to City Council review.

And,

WHEREAS the City Council has reviewed the Short Environmental Assessment Form, responding to each of the questions contained in Part 2, and has determined that the project, as submitted, is Unlisted and will not have a significant effect on the environment,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown declares that the proposed construction and site plan constitute an Unlisted Action for the purposes of SEQRA and hereby determines that the project, as proposed, will not have a significant effect on the environment, and



BE IT FURTHER RESOLVED by the City Council of the City of Watertown, New York that site plan approval is hereby granted to Patrick J. Scordo, P.E., of GYMO, P.C., on behalf of First Presbyterian Church, for the construction of a 47 space parking lot at 403 Washington Street, Parcels No. 11-03-213, 11-03-215 and 11-03-216 as shown on plans submitted to the City Engineer on May 12, 2004, contingent upon the applicant making the revisions and meeting the requirements listed above in the City Planning Board's recommendation.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS the City Purchasing Department has advertised and received sealed bids for the purchase of one (1) 2002 used or newer vibratory roller, per specifications, for use by the Department of Public Works, and

WHEREAS invitations to bid were issued to nine (9) prospective bidders with five (5) bids being submitted and publicly opened and read on Monday, March 29, 2004, at 1:30 p.m. in the City Purchasing Department, and

WHEREAS City Purchasing Agent Robert J. Cleaver and Superintendent of Public Works Gene Hayes reviewed the bids submitted and are recommending that the City Council accept the lowest qualifying bid, per our specifications, submitted by Gateway Equipment, E. Syracuse, New York in the amount of \$22,000.00,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown, New York hereby accepts the bid in the amount of \$22,000.00 submitted by Gateway Equipment, E. Syracuse, New York for the purchase of one (1) 2002 used or newer vibratory roller for use by the Department of Public Works. This amount includes a trade-in of our 1985 Galion Static Roller.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN TIMOTHY R. LABOUF**

WHEREAS the City Purchasing Department has advertised and received sealed bids for the purchase and installation of 65 Sports Lights, per our specifications, for installation at the Alex T. Duffy Fairgrounds, and

WHEREAS invitations to bid were issued to six (6) prospective bidders, with three (3) sealed bids being received, and

WHEREAS on Tuesday, April 20, 2004, at 10:30 a.m., the bids received were publicly opened and read, and

WHEREAS City Purchasing Agent Robert J. Cleaver and Chief Line Crew Ralph Green reviewed the bids received and are recommending that the City Council accept the bid of City Electric, Watertown, New York in the amount of \$14,300.00, the lowest bid meeting the City's specifications,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown accepts the bid submitted by City Electric, Watertown, New York, in the amount of \$14,300.00 for sixty-five (65) Sports Lights, per our specifications, for installation by our Electric Department at the Alex T. Duffy Fairgrounds.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS the City Purchasing Department has advertised and received sealed bids for the purchase of miscellaneous ductile iron pipe, hydrants and fittings per bid specifications for the replacement of the Lillian Street water main, and

WHEREAS invitations to bid were issued to three (3) prospective bidders with three (3) bids being submitted and publicly opened and read on Tuesday, April 27, 2004, at 11:00 a.m. in the City Purchasing Department, and

WHEREAS City Purchasing Agent Robert J. Cleaver and Interim City Engineer Gary E. Pilon reviewed the bids submitted and are recommending that the City Council accept the lowest qualifying bid, per our specifications, submitted by Vellano Brothers, Latham, New York, in the amount of \$23,033.40, and

WHEREAS the bid submitted by Martisco Corporation was disqualified, as a result of their failure to include the cost for the accessory hardware, as specified in our specifications,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown, New York hereby accepts the bid in the amount of \$23,033.40 submitted by Vellano Brothers, Latham, New York for the purchase of miscellaneous ductile iron pipe, hydrants and fittings for the replacement of the Lillian Street water main, and

BE IT FURTHER RESOLVED that the approval of this bid is contingent upon the City Council approving the bond ordinance in the amount of \$60,000.

**SECONDED BY COUNCILMAN TIMOTHY R. LABOUF AND CARRIED WITH ALL VOTING YEA**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS on February 17, 2004, the City Council of the City of Watertown approved the bid submitted by Tuscarora Construction Company in the amount of \$1,889,527.40 as the lowest qualified bidder meeting the City's specifications for the replacement of the Pearl Street Bridge, and

WHEREAS it has been determined that the insulation covering the existing water pipe on the bridge contains asbestos and a subcontractor has been secured to perform the asbestos abatement, removal and disposal process, and

WHEREAS City Engineer Gary E. Pilon has reviewed the Change Order submitted by Tuscarora Construction Company for this work and he is recommending that the City Council authorize Change Order No. 1 in the amount of \$25,025,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves Change Order No. 1 to the contract with Tuscarora Construction Company in the amount of \$25,025, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Mary M. Corriveau is hereby authorized and directed to execute the Change Order documents on behalf of the City of Watertown.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY AND CARRIED WITH ALL VOTING YEA**

(Rules waived by motion of Councilman Clough, seconded by Councilman Bradley and carried with all voting in favor thereof)

**ORDINANCES**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of such capital project;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Watertown, Jefferson County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the replacement of the water main for Lillian Street, in and for the City of Watertown, Jefferson County, New York, including incidental expenses in connection therewith, there are hereby

authorized to be issued \$60,000 serial bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$60,000 and that the plan for the financing thereof is by the issuance of the \$60,000 serial bonds of said City authorized to be issued pursuant to this bond ordinance.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is 40 years, pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Watertown, Jefferson County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Watertown, Jefferson County, New York, by the manual or facsimile signature of the City Comptroller and a facsimile of its corporate seal shall be imprinted thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City, provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds,

providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. This ordinance shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.  
Section 11. This ordinance, which takes effect immediately, shall be published in full in the Watertown Daily Times, the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY**

**LAI D OVER UNDER THE RULES**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, by bond ordinance dated August 18, 2003 (Ordinance No. 4), the Council of the City of Watertown, Jefferson County, New York, authorized the issuance of \$30,000 serial bonds of said City to pay the cost of purchase and installation of exterior parking lot and walkway lighting at the Jefferson County Courthouse, including incidental expenses in connection therewith, in and for the City of Watertown, Jefferson County, New York, and

WHEREAS, it is now desired to authorize the issuance of \$25,000 serial bonds of said City to finance additional costs of said specific object or purpose;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Watertown, Jefferson County, New York, as follows:

Section 1. For the specific object or purpose of paying additional costs of the purchase and installation of exterior parking lot and walkway lighting at the Jefferson County Courthouse, in and for the City of Watertown, Jefferson County, New York, including incidental expenses in connection therewith, there are hereby authorized to be issued an additional \$25,000 serial bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$55,000 and that the plan for the financing thereof is as follows:

(a) by the issuance of the \$30,000 serial bonds of said City authorized to be issued pursuant to bond ordinance dated August 18, 2003 (Ordinance No. 4); and

(b) by the issuance of the additional \$25,000 serial bonds of said City authorized to be issued pursuant to this bond ordinance.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years, pursuant to subdivision 35 of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Watertown, Jefferson County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied

on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Watertown, Jefferson County, New York, by the manual or facsimile signature of the City Comptroller and a facsimile of its corporate seal shall be imprinted thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City, provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. This ordinance shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This ordinance, which takes effect immediately, shall be published in full in the Watertown Daily Times, the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

**SECONDED BY COUNCILMAN STEPHEN J. BRADLEY**

**LAID OVER UNDER THE RULES**

**LOCAL LAW**

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

A Local Law amending Local Law No 1 of 2003 to correct a mistake in describing a portion of the designated boundary.

WHEREAS the Watertown Empire Zone (formerly Economic Development Zone) was designated as such on July 27, 1994 by the New York State Department of Economic Development, and

WHEREAS the zone boundaries of the Watertown Empire Zone were amended by the City of Watertown in its Local Law No. 1 of 2003; and

WHEREAS it has subsequently been discovered that a mistake was made in describing the footprint of a proposed construction project in the Town of Watertown; and

WHEREAS it was the intention of the City of Watertown to correctly describe the footprint of the proposed building so as to enable the parcel's owner to take full advantage of all benefits available in the Watertown Empire Zone; and

WHEREAS the mistake which has been discovered must be corrected by an amendment to Local Law No. 1 of 2003 which had designated the boundaries of the Watertown Empire Zone.

NOW THEREFORE BE IT ENACTED by the City Council of the City of Watertown, New York that Local Law No. 1 of 2003 of the City of Watertown shall be



amended to replace the description of the footprint described at Map 13, under tax parcel number 91.05-1-17.25, with the following:

91.05-1-17.25	<u>Longitude</u>	<u>Latitude</u>
	-75.914331	43.947692
	-75.914292	43.948022
	-75.913822	43.947986
	-75.913858	43.947661

This Local Law shall take effect immediately upon filing with the Secretary of State.

**SECONDED BY COUNCILMAN TIMOTHY R. LABOUF**

**MOTION WAS MADE BY COUNCILMAN CLOUGH TO SCHEDULE A  
PUBLIC HEARING ON THE FOREGOING LOCAL LAW FOR MONDAY,  
JUNE 7, 2004 AT 7:30 P.M.**

**MOTION WAS SECONDED BY COUNCILMAN BRADLEY AND CARRIED  
WITH ALL VOTING IN FAVOR THEREOF.**

**\*\* \*\* \***

**COUNCIL DISCUSSED THE FOLLOWING TOPICS:**

**J.B. Wise Parking Lot**

Council reviewed the memo from Ms.Hoffman, Downtown Development Specialist. The third proposal would involve signage and widening of the current exit.

Councilman Clough commented that the DBA should know their needs better than he would.

Councilman Bradley commented that this is not 100% at the DBA level. Some of the members he spoke with liked the second proposal better. He stated that he thinks more questions need to be asked.

Councilman LaBouf suggested doing the third proposal and then re-evaluating the situation.

Mrs. Corriveau explained that this proposal would be the least expensive option. She will have preliminary costs put together for the Council.

## **Outdoor Bulk Storage Legislation**

Council reviewed the information supplied by Attorney Slye outlining the draft legislation and the responses from the attorneys for both sides of the issue.

Mrs. Corriveau also referred to the letter from Cleaves Enterprises which was received this date outlining their plans to have the pile completed and covered by May 24<sup>th</sup> and 25<sup>th</sup>.

Councilman LaBouf asked what material would be used to cover the pile. It was explained that it would be covered by a plastic tarp.

Mayor Graham commented that the letter from Mr. Cleaves was sent after the fact and he is not sure that was the right way to go with this. He questioned if people are alleging severe health problems why something isn't being done.

Council was advised that it is the State DEC that issued the species permit and it is the State DEC that tells how much salt can be brought in and covered.

Councilman Clough remarked that this has been an issue from day one. He apologized to the residents in the area. However, he stated that the other three Council members present this evening haven't been involved in this issue and should not be blamed for it as the neighbors did this evening. He stated that he knows what it has been like for the past two years and there have been numerous conversations with the neighbors, DEC, and the City. He also commented that Attorney Slye drew up an ordinance and sent letters to the attorneys for both sides, asking for input from them. He stated that Attorney Slye also has done everything that the former Council asked him to do. Councilman Clough commented that if the neighbors put blame anyplace, it should be put on himself, not the other members or Attorney Slye. He also commented that he contacted Codes and they did take pictures. The salt pile has never been built in the spring and it has never been that high.

Mayor Graham questioned why the draft legislation hadn't come before Council before since it was drafted last year.

Councilman Clough commented that the neighbors' attorney didn't respond to Attorney Slye's request for input on the legislation.

Attorney Slye, once again, explained the difference between public and private nuisance lawsuits and the criteria needed for both. He explained that the City of Watertown has no business participating in a federal court action that is deemed to be a state action. He also advised Council that Attorney Burrows met with about 20-25 people in the neighborhood who felt that their medical conditions were tied to the salt pile. He asked for them to supply documentation from their doctors. To date, nothing has been submitted. That is the type of proof that is going to be needed. He also explained that a public nuisance suit does not result in monetary awards, only an abatement of the nuisance. He explained that

perhaps what Mr. Cleaves is proposing to do by May 24<sup>th</sup> would be deemed by the courts to be abatement. He also explained that the neighbors were advised to pursue a private nuisance action because there can be monetary awards and it requires a lower standard of proof. He stated that the City has been asked by the residents to proceed in something that the City is barred from doing. He commented that there has been a successful claim in City Court brought by an individual against the owner of this property. He suggested that the neighbors take the same type of action. He stated that while we can paint in broad-brush strokes how large the pile is, we can't claim it to be a health issue.

Mayor Graham referred to Ms. Russell's diagnosis and asked if the State DOH would get involved as a result of it.

Attorney Slye commented that the City would need to have the doctor sign an affidavit attesting to the fact that her condition was caused by the effects of the salt pile.

Attorney Slye discussed the draft legislation and the fact that it was vague. However, he remarked that comments from the neighbors' attorney would have helped.

Councilman LaBouf remarked that he feels it is Council's responsibility to do whatever can be done to help the neighbors out. He stated that while there is the "letter of the law", there is also the "spirit of the law" which is being violated. He stated that children should be able to play outside. He stated that even though he is not a doctor, he doesn't see it as a coincidence that people are getting respiratory infections in that area. Councilman LaBouf asked if allowing the salt pile in that zone was a unique situation.

Mrs. Corriveau explained that the salt pile is located in a heavy industry zone. The houses are in light industry or Residence C. The houses located in the light industry zone are the non-conforming use.

Councilman LaBouf commented that the needs of the residents supercede any law or zoning regulation. He stated that covering the pile would be a great thing. However, it is only temporary as the real solution is moving it. He questioned what would happen if the citizens lose in court.

Attorney Slye explained that a public nuisance would surely fail. A private nuisance would be easier to prove. The tort of nuisance is a continuing tort. Therefore, if anything changes, they could bring another claim.

Mayor Graham asked about the wood burning stoves compared to the salt pile.

Attorney Slye explained that the wood burning stove issue was regulating conduct. The salt pile is a property rights issue. The Council was considering regulating the use of wood burning stoves as opposed to banning them. It did not involve the zoning laws. It is different than a person using their property for certain uses which would involve zoning issues and property rights.

Councilman LaBouf asked what Attorney Slye would suggest about relocating the salt pile.

Attorney Slye responded that Mrs. Corriveau's remarks earlier in the meeting summed up the situation. He stated that the reason the salt pile is where it is, is because of the railroad siding. The industrial park is zoned light industry and also has the only other railroad siding in the City. The City asked Mr. Cleaves if he'd consider moving there prior to the Trust gaining the option on the park property. He wasn't interested and the City cannot use public funds for private purposes, under the State Constitution.

Mr. Mix explained that before American Rock Salt located on the Cleaves property, they did discuss with the City about locating in the industrial park. But, they decided on the Cleaves property.

Councilman Clough remarked that he wanted to clarify that when he was speaking before, he was speaking for himself – not the other members of the prior Council.

Councilman Bradley left the meeting at 8:30 due to a personal emergency.

Attorney Slye discussed the draft legislation and explained that the comments concerning the targeting of their business are not valid, as the City has gone after the smoke issue from the wood burning stoves as well as the recycling issue. He stated that the vagueness of the legislation comes down to the question of what is detrimental to the comfort of the neighbors. He stated that the ideal situation would be an indoor unloading facility that would envelop the salt as it is being unloaded. He also commented that if they are fined enough times, then maybe they would want to enclose it.

Mayor Graham commented that the City has been interested in regulating problems that come from one property to another such as in the case of the smoke issue.

Attorney Slye explained that when they were doing the legislation for the wood burning stoves, they used a test for the thickness of smoke that was developed in 1945 and which has been discredited over the past 20 years. However, there is no new test and the State wouldn't do anything about the problem. He stated that he doesn't see where the City is in a position to declare road salt a hazardous material since we put in on the roads.

Mayor Graham asked about the effect it is having on the foliage.

Attorney Slye commented that the City needs an expert to render an opinion on that.

Mayor Graham commented that the State DOH needs to do more. He stated that fines for the violations would seem like a reasonable course of action at this time.

Attorney Slye also advised that if the zoning were changed, the Cleaves property would be grandfathered in.

Councilman LaBouf commented that we need to do everything we can to help out the neighbors in that area.

Mayor Graham also commented that in all fairness to Mr. Cleaves, he bought property that was zoned for the use he wanted it for.

Attorney Slye suggested regulating the conduct rather than the property.

The following Local Law was presented:

**INTRODUCED BY COUNCILMAN PETER L. CLOUGH**

A Local Law regulating the outdoor bulk storage of particulate matter.

WHEREAS Article 169 of the Code of the City of Watertown generally addresses “hazardous and objectionable conditions;” and

WHEREAS the City of Council of the City of Watertown believes the outdoor bulk storage of particulate matter, when uncovered or disturbed, can result in the blowing and drifting of that particulate matter upon nearby residential properties; and

WHEREAS such conditions are objectionable and, in some circumstances, can create a nuisance to the neighbors and to the citizens of the City at large; and

WHEREAS the City Council of the City of Watertown deems it to be in the best interest of the citizens of the City, and for the promotion of safety, health, comfort and general welfare of the inhabitants of the City and visitors thereto, to regulate the outdoor bulk storage of particulate matter to limit the objectionable conditions which may be created thereby:

BE IT ENACTED BY THE CITY COUNCIL OF CITY OF WATERTOWN, NEW YORK as follows:

Chapter 169 of the Code of the City of Watertown shall be amended to add the following definition:

Bulk Storage of Particulate Matter – the outdoor storage of sand, soil, salt, sawdust or similar material in an amount exceeding\_\_\_cubic yards.

Chapter 169 of the Code of the City of Watertown shall further be amended to add the following section:

169-14-A Bulk Storage of Particulate Matter.

- A) No person or persons, firm or corporation shall cause, permit or allow the bulk storage of particulate matter on property in the City without

- providing adequate cover to insure that it is not blown or carried off the property onto properties dedicated to a residential use.
- B) The accumulation of particulate matter emanating from uncovered bulk storage of particulate matter upon the properties dedicated to a residential use is deemed detrimental to the comfort and property of the citizens of the City, and is deemed a public nuisance.
  - C) If particular matter emanates from the uncovered bulk storage of particulate matter and is caused by wind or otherwise to accumulate to an unreasonable degree upon properties dedicated to a residential use, the person or persons, firm or corporation violating the provisions of this section shall be subject to a civil penalty of not less than \$250.00, nor more than \$500.00. For the purposes of this Section, each day's violation shall be deemed a separate violation subject to a separate civil penalty.
  - D) Nothing in this section shall be deemed to create a private cause of action in favor of one party against another.
  - E) Notwithstanding the civil penalties called for by this section, the City Code Enforcement Supervisor may, in an appropriate case, seek to abate any public nuisance created by the bulk storage of particulate matter by seeking injunctive relief in a Court of competent jurisdiction.

This local law shall take effect immediately upon filing with the Secretary of State.

**SECONDED BY MAYOR JEFFREY E. GRAHAM**

**MOTION WAS MADE BY COUNCILMAN CLOUGH TO SCHEDULE A PUBLIC HEARING ON THE FOREGOING LOCAL LAW FOR MONDAY, JUNE 7, 2004 AT 7:45 P.M.**

**MOTION WAS SECONDED BY MAYOR GRAHAM AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.**

**Budget Session**

The budget session scheduled for Wednesday, May 19<sup>th</sup> was cancelled.

**ADJOURNMENT**

**AT THE CALL OF THE CHAIR MEETING WAS DULY ADJOURNED AT 8:50 P.M. UNTIL MONDAY, MAY 24, 2004 AT 5:00 P.M. BY MOTION OF COUNCILMAN CLOUGH, SECONDED BY COUNCILMAN LABOUF AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.**

**Donna M. Dutton**  
City Clerk